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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/497,993	02/04/2000	Bradley Paul Barber	2925-0401P	8152	
30595	7590 04/14/2003				
HARNESS, DICKEY & PIERCE, P.L.C.			EXAMINER		
	P.O. BOX 8910 RESTON, VA 20195			TUGBANG, ANTHONY D	
			ART UNIT	PAPER NUMBER	
			3729	11	
			DATE MAILED: 04/14/2003	[]	

Please find below and/or attached an Office communication concerning this application or proceeding.



Advisory Action

Application No.	Applicant(s)
09/497,993	BARBER ET AL.
Examiner	Art Unit
Dexter Tugbang	3729

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

	on for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued ation (RCE) in compliance with 37 CFR 1.114.
	PERIOD FOR REPLY [check either a) or b)]
a) 🛚	The period for reply expires 3 months from the mailing date of the final rejection.
b) 📙	no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).
fee have fee under (2) as set	nsions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or thorth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if add, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).
	A Notice of Appeal was filed on Appellant's Brief must be filed within the period set forth in 7 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. T	he proposed amendment(s) will not be entered because:
(a)	they raise new issues that would require further consideration and/or search (see NOTE below);
(b)	they raise the issue of new matter (see Note below);
(c)	they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d)	they present additional claims without canceling a corresponding number of finally rejected claims. NOTE:
3. 🗌 A	pplicant's reply has overcome the following rejection(s):
	lewly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
	The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Attachment.
	he affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly aised by the Examiner in the final rejection.
	for purposes of Appeal, the proposed amendment(s) a) \square will not be entered or b) \boxtimes will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
Ŧ	he status of the claim(s) is (or will be) as follows:
(Claim(s) allowed:
(Claim(s) objected to:
(Claim(s) rejected: <u>1-5 and 10-16</u> .
(Claim(s) withdrawn from consideration: <u>6-9,17-28</u> .
8.□ T	The proposed drawing correction filed on is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. 🗌 N	lote the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s).
10. 🗌 (Dexter Tugbang Primary Examine Art Unit: 3729

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Attachment to Advisory Action

In the Request for Reconsideration filed 3/31/03 (Paper No. 10), the applicants' arguments have not been deemed to found as persuasive.

Applicants' contend that the prior art does not teach "isolating... from the device" (last 3 lines of each of Claims 1 and 13). The examiner traverses as the above feature was relied upon in EerNisse et al. EerNisse actually removes a mass of piezoelectric material in which the examiner has not only relied upon this mass removal at just col. 1, line 55 to col. 2, line 5, but EerNisse further discusses mass removal of the piezoelectric material at various other locations in his disclosure, such as at col. 5, lines 6-7 with subtracting mass, or with specific removal of material by other various known methods of grinding, etc., at col. 6, lines 33-35. The removal of piezoelectric material is important to EerNisse to explicitly reduce the gamma vector of excitation or acceleration, i.e. vibration, (at col. 2, lines 33-58), which is equivalent to reducing the amount of acoustic energy of vibration propagating in a lateral direction away from the device. The advantage of this is to control the frequency of the device, which would motivate one of ordinary skill in the art to combine EerNisse with Braymen, to solve the problems associated with manufacturing piezoelectric devices.

The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

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In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Accordingly, the examiner maintains the Final Rejection of the prior art (Paper No. 8).